

COMMUNITY AFFAIRS

DIVISION OF CODES AND STANDARDS

Hotels and Multiple Dwellings

Indirect apportionment of heating costs

Criteria for acceptance

Proposed Amendments: N.J.A.C. 5:10-25.1 and 25.3

Authorized by: Susan Bass Levin, Commissioner, Department of Community Affairs

Authority: N.J.S.A. 55:13A-7.10

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2004-

Submit written comments by December 16, 2004 to:

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SUSAN BASS LEVIN, Commissioner

The agency proposal follows:

Summary

P.L. 1991, c.453, N.J.S.A. 55:13A-7.8 et seq., conferred upon the Department of Community Affairs responsibility for approving and regulating methods and devices for the indirect apportionment of heating costs in a multiple dwelling. Pursuant to that mandate, the Department adopted implementing rules, which were effective October 5, 1992.

In those rules, the Department provided that certain types of systems would not be acceptable, notably including those that measured heat use by some means other than measurement of the flow rate. In the intervening years, however, the technology of indirect apportionment devices has evolved and systems and devices are now available that meet the requirements of the applicable national standard, *ASHRAE Guideline 8-1994, "Energy Cost Allocation in Multiple-Occupancy Residential Buildings*, but would not be acceptable under the current Department rule.

The Department therefore proposes to change the rule to provide that systems shall be disapproved if they fail to meet the requirements of the applicable national standard, instead of for the reasons now specified. The proposal also includes an updating of a reference to the Board of Public Utilities.

Inasmuch as a 60-day comment period is being provided for this rule proposal, the proposal, in accordance with N.J.A.C. 1:30-3.3(a)5, is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars

Social Impact

The proposed amendment would be socially beneficial in that it would provide assurance that installations of this potentially energy-saving technology will be reviewed

in accordance recognized national standards and that systems will not be rejected for reasons that are not technically valid.

Economic Impact

The purpose of indirect apportionment is to provide a means whereby building owners can pass heating costs on to tenants, who will presumably have a greater interest in conservation of energy if they, like the owner of single family homes, have to pay the cost of their energy use. In buildings subject to regulation by the Department under the Limited Dividend Nonprofit Housing Corporations or Associations Law or the Long-Term Tax Exemption Law, there must be a rent reduction commensurate with savings to the owner. In other buildings, that may or may not be the case, depending on local rent control requirements. This proposed amendment, which would facilitate installation of systems and devices meeting national standards, would most likely result in reduced energy costs, but would be neutral as to the extent to which those savings would benefit owners or occupants.

Federal Standards Statement

No Federal standards analysis is required because these rules are not being proposed for amendment under the authority of, or in order to implement, comply with, or participate in, any program established under, Federal law or under a State statute that incorporates or refers to Federal law, standards or requirements.

Jobs Impact

The Department does not expect that adoption of this rule proposal would result in the creation or loss of any jobs.

Agricultural Industry Impact

This proposal would have no impact upon the agricultural industry.

Regulatory Flexibility Statement

The proposed amendment would be beneficial to any "small businesses," as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., that might be engaged in the sale of systems or devices meeting the national standard that might not be consistent with the current rules. It would also be likely to be beneficial to multiple dwelling owners wishing to install such systems who might qualify as "small businesses." The proposed amendment would not impose any new reporting, recordkeeping or compliance requirements on "small businesses" or make it necessary for them to engage any professionals whom they would not otherwise have to engage.

Smart Growth Impact

The adoption of this proposal would have a positive impact upon "smart growth" and the implementation of the State Development and Redevelopment Plan to the extent that it would facilitate reduced energy consumption.

Full text of the proposal follows (additions indicated in bold face **thus**; deletions indicated in brackets [thus]).

5:10-25.1 Scope

(a)-(b) (No change.)

(c) This subchapter shall not apply to devices for direct apportionment of heating costs that are approved by the Board of {Regulatory Commissioners] **Public Utilities**.

(d)-(e) (No change.)

5:10-25.3 Criteria for acceptance

(a)-(c) (No change.)

(d) The following general classes of methods, devices and systems shall not be approved because of inherent inaccuracy:

1. [Elapsed time monitors for hydronic systems;
2. Time/temperature monitors for hydronic systems which do not measure flow rate;
3. Systems for any heat source based solely on thermostat settings in individual dwelling units; and
- 4.] Methods that rely on any means of calculation other than the use of approved devices or systems; **and**

2. Any device or system not meeting the requirements set forth in the most recent edition of ASHRAE Guideline 8-1994, "Energy Cost Allocation for Multiple-Occupancy Residential Buildings," published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., 1791 Tullie Circle, NE, Atlanta, GA 30329-2305;

(e) (No change.)

